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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,334	11/09/2001	Hidekazu Nakai	275788US6	5902
22850	7590	05/10/2006	EXAMINER	
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			SCUDERI, PHILIP S	
			ART UNIT	PAPER NUMBER
			2153	

DATE MAILED: 05/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/037,334	Applicant(s) NAKAI, HIDEKAZU	
	Examiner Philip S. Scuderi	Art Unit 2153	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This Office action is in response to applicant's communication filed on 24 April 2006.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 22 March 2006 has been entered.

Priority

Receipt is acknowledged of the certified translation of Japanese Application No. 2000-349339 from which the instant application claims foreign priority.

Response to Arguments

The examiner has considered the certified translation of Japanese Application No. 2000-349339. The certified translation fully supports the claimed subject matter. For example, pages 1-2 show substantially the same claims as the instant application. Therefore, U.S. Patent Application No. 2002/0055969 to Sato et al. does not constitute prior art. Accordingly, the rejections set forth in the last Office action have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of U.S. Patent No. 6,460,076 to Srinivasan.

Claim Objections

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The claim objections set forth in the last Office action have been withdrawn because applicant's amendments have overcome the objections.

Claim Rejections - 35 USC § 112

The rejection under 35 USC 112, second paragraph has been withdrawn because applicant's amendments have overcome the rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6 rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,460,076 to Srinivasan ("Srinivasan").

Regarding claim 1, Srinivasan teaches a recording medium, comprising:

a first storage region wherein program information describing a procedure for executing a process for establishing a connection to a predetermined server over a predetermined communication network and downloading data from the connected server, is stored (column 5, lines 46-59); and

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a second storage region into which the data can be written (column 5, line 60 – column 6, line 42).

Regarding claim 2, Srinivasan further teaches a third storage region having an ID unique to said recording medium stored thereon (column 5, lines 46-59, device identification information).

Regarding claim 3, Srinivasan further teaches that the ID is information which can be utilized by said server to manage accounting for the downloaded data (column 5, lines 46-59, device identification information is used to determine whether to accept requests for data; column 7, lines 55-63, users are billed for downloaded data).

Regarding claim 4, Srinivasan further teaches that the ID is information which can be utilized by said server to identify a type of the download data (column 5, lines 46-59, the server identifies that certain data is compatible with certain devices).

Regarding claim 5, Srinivasan further teaches that the ID is information which can be utilized by said server to identify a supply source of the download data (column 5, lines 46-59, the server uses device identification information to identify that supply sources are compatible with certain devices).

Regarding claim 6, Srinivasan teaches the recording medium applied to claim 1, and further teaches:

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an access step of accessing said server in accordance with the read out program information (column 5, lines 46-59);

a download step of downloading required data from said server accessed in accordance with the read out program information (column 5, line 60 – column 6, line 42); and

a storage control step of storing the data acquired by the downloading into said second storage area of said storage medium (column 5, line 60 – column 6, line 42).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip S. Scuderi whose telephone number is (571) 272-5865. The examiner can normally be reached on Monday-Friday 9:00 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B. Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

PS



GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100